IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3647 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

GUJ.STATE ROAD TRANSPORT CORP

Versus

AMARA SURA BOKHANI H/O LATE VIORBHAI AMARA

Appearance:

MR MITUL K SHELAT for Appellant

MR SURESH M SHAH for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 17/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the respective parties. Appeal admitted.

2. On a joint request of learned counsel, the appeal is taken up for final hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, 1988 by the Gujarat State Road Transport Corporation, being the owner of the bus which was involved in an accident and which gave rise to Motor Accident Claim Petition No.876/97, which was decided by the Motor Accident Claims Tribunal, Bhuj.

4. The said claim petition was filed as a substantive claim petition under section 166 of the Motor Vehicles Act. In the said claim petition the claimants preferred an application under section 163-A of the Act, which was given a separate number by the Tribunal being I.R. No.663/97. The latter application under section 163-A of the Act was, however, treated by the Tribunal as an interim application in the main claim petition, and has been decided by order passed below Exh.6. It is this award under section 163-A, which is the subject matter of the present appeal.

5. As a result of the hearing and discussion, learned counsel for the respondent-original claimants, with a view to eliminate or narrow down the controversy, made a statement to the Court, after obtaining appropriate instructions of the original claimants, that the claimants are prepared to accept whatever compensation that may be determined in the present appeal as the final figure of compensation due to them in respect of their entire claim, although this appeal arise from an award under section 163-A of the Act. With this aim in view, learned counsel for the respondents-original claimants, stated that the main claim petition filed under section 166 of the Act viz. Motor Accident Claim Petition No.876/97 shall be withdrawn by the original claimants.

6. The respondents-original claimants are hereby directed to comply with the statement made by their learned counsel.

7. So far as the question of appropriate compensation due and payable to the claimants in respect of their application under section 163-A is concerned, we have heard the learned counsel for the respective parties on merits, examined the impugned judgement and award, and

have referred to such evidentiary material on record to which our attention has been drawn.

8. As a result of the aforesaid exercise, learned counsel for the respondent-original claimants fairly submitted that there was some minor scope for reduction in the amount of compensation due to the claimants. In this context, he submitted that the impugned award may be modified and reduced by a sum of Rs.30000/-.

9. As a result of the aforesaid exercise and our determination of the appropriate compensation due to the claimants, we find that the aforesaid offer made by learned counsel for the original claimants is just and reasonable and the same would not merely meet the ends of justice, but in our opinion would also correctly reflect the appropriate figure on a reappreciation of the entire merits of the matter.

10. Learned counsel for the appellant was unable to persuade us to reduce the amount of compensation any further.

11. In the premises aforesaid, we hold and direct that the respondents-original claimants shall be entitled to compensation (in the aggregate) in the sum of Rs.2,04,900/- together with proportionate costs and interest at the rate of 12% per annum from the date of the application till realisation.

12. The impugned award is modified only to the aforesaid extent.

13. The present appeal is, therefore, partly allowed with no order as to costs. Decree accordingly.

****

ar